

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

NOV 05 2009

LAWRENCE K. BAERMAN, CLERK
ALBANY

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Criminal Action No. 09-315

v.

MARK O'BRIEN,

Defendant.

ORDER FOR DISMISSAL

Pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of court endorsed hereon, the United States Attorney for the Northern District of New York hereby dismisses Counts 1, 2, 3, 4, 5, and 6 of Indictment No. 09-315 against MARK O'BRIEN , the defendant.

The reason(s) for this dismissal are (check one or more):

- Case transferred to another District
- Speedy Trial Act
- Defendant's cooperation
- Insufficient evidence at this time
- Other: Defendant has plead guilty to two State Court offenses involving substantially the same conduct as charged in the federal indictment. In light of the parity between the

expected State Court sentence (20 – 30 years) and the guideline range for the charges in the federal indictment, approval for a continuation of the federal case was not obtained.

With respect to this dismissal, defendant (check one):

- Consents
 Objects
 Has not been consulted

This dismissal is without prejudice.

ANDREW T. BAXTER
United States Attorney

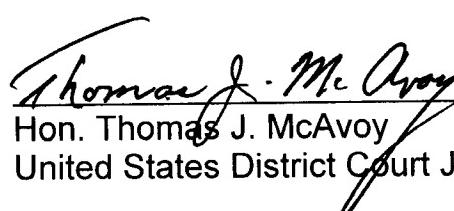


By: NATHANIEL J. DORFMAN
Assistant U.S. Attorney
Bar Roll No.515196

Leave of court is granted for the filing of the foregoing dismissal.

Dated: 10/5/09

Binghamton, New York


Hon. Thomas J. McAvoy
United States District Court Judge